



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Aaron Ford, D.C.

Respondent Name

Texas Mutual Insurance Company

MFDR Tracking Number

M4-16-2919-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

May 24, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "On 1 15 16 Dr Aaron Ford performed a DD requested FCE on the above patient. In his report it clearly stated the 'actual face time' with the patient. He justified the 3 hours and 30 min spent with the patient."

Amount in Dispute: \$740.46

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This claim is in Texas Mutual's Texas Star Network ... Therefore, this matter must be dismissed..."

... Dr. Ford did *not* state actual face-to-face time in his report. The first page of the January 7, 2016 report simply states: 'Duration: 3 hours and 30 mins.' It does not state face-to-face time or what else may be included in that time, but at most, the documented actual face-to-face time in the report totals slightly more than 27 minutes."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 7, 2016	Functional Capacity Evaluation (14 units)	\$740.46	\$740.46

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §127.10 sets out the procedures for designated doctors.
3. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.
4. 28 Texas Administrative Code §134.204 sets out the fee guidelines for division-specific services from March

1, 2008 until September 1, 2016.

5. Texas Labor Code §408.0041 grants the Division of Workers' Compensation the authority to order designated doctor examinations.
6. Texas Insurance Code §1305 puts forth the requirements for claims subject to certified health care networks.
7. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - CAC-16 – Claim/service lacks information or has submission/billing error(s) which is needed for adjudication.
 - 876 – Required documentation missing or illegible. See rules 133.1; 133.210; 129.5; or 180.22
 - CAC-P12 – Workers' compensation jurisdictional fee schedule adjustment.
 - CAC-193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - 225 – The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information.
 - 724 – No additional payment after a reconsideration of services.
 - 892 – Denied in accordance with DWC rules and/or medical fee guideline including current CPT code descriptions/instructions.
 - 18 – Exact duplicate claim/service.
 - 736 – Duplicate appeal. Network Contract applied by Texas Star Network.

Issues

1. Is the dispute in question eligible for medical fee dispute resolution in accordance with 28 Texas Administrative Code §133.307?
2. Are Texas Mutual Insurance Company's documentation-based denials for payment supported?
3. Is reimbursement due for the functional capacity evaluation (FCE) in dispute?

Findings

1. Aaron Ford, D.C. is seeking reimbursement for an FCE performed January 7, 2016 in response to a referral from Designated Doctor Sandra Silmon. Texas Mutual Insurance Company (Texas Mutual) argued in its position statement that "this claim is in Texas Mutual's Texas Star Network ... Therefore, this matter must be dismissed." The division finds that Dr. Ford is not in the Texas Star Network.

Designated doctor referrals are authorized under the Texas Labor Code and division rules. Texas Insurance Code Chapter 1305 contains a provision which limits applicability of certain 1305 Network requirements when they adversely affect powers granted to the division under the Labor Code. Specifically, Texas Insurance Code §1305.003 states, in pertinent part, that:

- (a) This chapter [TIC 1305] does not affect the authority of the division of workers' compensation of the department to exercise the powers granted to the division under Title 5, Labor Code, that do not conflict with this chapter [TIC 1305].

Texas Labor Code §408.0041 grants the division the exclusive authority to order a designated doctor to examine an injured employee and resolve questions or disputes over the injured employee's medical condition. 28 Texas Administrative Code §127.10 in turn authorizes designated doctors to make referrals when necessary to resolve the question(s) the designated doctor was ordered to address.

Because the service in question was provided under the authority of the Texas Labor Code and not under a certified health care network, the division concludes that the service is eligible for medical fee dispute resolution in accordance with 28 Texas Administrative Code §133.307.

2. Texas Mutual denied the service in question with claim adjustment reason codes
 - CAC-16 – "CLAIM/SERVICE LACKS INFORMATION OR HAS BILLING/SUBMISSION ERROR(S) WHICH IS NEEDED FOR ADJUDICATION;"
 - 876 – "REQUIRED DOCUMENTATION MISSING OR ILLEGIBLE. SEE RULES 133.1; 133.210; 129.5; OR 180.22;"

- 225 – “THE SUBMITTED DOCUMENTATION DOES NOT SUPPORT THE SERVICE BEING BILLED...,” and
- 892 – “DENIED IN ACCORDANCE WITH DWC RULES AND/OR MEDICAL FEE GUIDELINES INCLUDING CURRENT CPT CODE DESCRIPTIONS/INSTRUCTIONS.”

Texas Mutual argued these denial reasons stating,

Dr. Ford did *not* state actual face-to-face time in his report. The first page of the January 7, 2016 report simply states: ‘Duration: 3 hours and 30 mins.’ It does not state face-to-face time or what else may be included in that time, but at most, the documented actual face-to-face time in the report totals slightly more than 27 minutes. Each test that was documented included time stamps as follow: 3:37:54 – 3:52:19...

28 Texas Administrative Code §134.204(b) and (g) contain the billing and documentation requirements for an FCE as follows:

- §134.204(g) requires health care providers to bill FCEs using CPT Code 97750 with modifier "FC."
- §134.204(b)(1) requires health care providers to bill their usual and customary charges using the most current Level I (CPT codes). According to American Medical Association (AMA) Current Procedural Terminology (CPT) Code 97750-FC is a timed code, billed in 15-min increments, which includes direct patient contact and a written report.
- §134.204(g) requires that FCEs shall be reimbursed in accordance with §134.203(c)(1). Rule §134.203(c)(1) in turn states that health care providers **shall apply the Medicare payment policies** [emphasis added] with minimal modifications.
- Applicable Medicare policy found in the Medicare Claims Processing Manual 100-04, Chapter 5 titled *Part B Outpatient Rehabilitation*, Section 20.2-Reporting of Service Units describes the Medicare requirements for counting minutes for timed codes including 97750.
- Section 20.2, paragraph C: *Counting Minutes for Timed Codes in 15 Minute Units* states that “the amount of time for each specific intervention/modality provided to the patient is **not required to be documented** [emphasis added] in the Treatment Note. However, the total number of timed minutes must be documented.”

Review of the medical bill finds that Dr. Ford billed 14 units for procedure code 97750-FC. Review of the FCE report finds a documented start time of 12:30 PM, and a documented end time of 4:00 PM. The division finds that the documentation sufficiently supports that the total number of timed minutes resulted in 14 billable units for procedure code 97750-FC when compared to the requirements of Medicare Claims Processing Manual 100-04, Chapter 5, Section 20.2, paragraph C. It is concluded that Texas Mutual’s documentation denials are therefore, not supported.

3. 28 Texas Administrative Code §134.204(g) adopts the 28 Texas Administrative Code §134.203(c) MAR calculation by reference. The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the division conversion factor. The Division conversion factor (DWC CF) for 2015 is \$56.82.

The geographic practice cost index (GPCI) for work is multiplied by the relative value (RVU) for work. The practice expense (PE) GPCI is multiplied by the PE RVU. The malpractice (MP) GPCI is multiplied by the MP RVU. The sum of the calculations is multiplied by the Division conversion factor.

The MAR is calculated as follows:

For CPT code 97750-FC on January 7, 2016, the relative value (RVU) for work of 0.45 multiplied by the geographic practice cost index (GPCI) for work of 1.02 is 0.459. The practice expense (PE) RVU of 0.46 multiplied by the PE GPCI of 1.01 is 0.4646. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.77 is 0.0154. The sum of 0.93768 is multiplied by the division conversion factor of \$56.82 for a total of \$53.28. This total is multiplied by 14 units for a MAR of \$745.92.

The total MAR for the disputed services is \$745.92. Dr. Ford is seeking \$740.46. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$740.46.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$740.46, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	<u>Laurie Garnes</u>	<u>February 3, 2017</u>
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.